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FISCAL IMPACT STATEMENT

LS 6551

BILL NUMBER: SB 152

NOTE PREPARED: Feb 20, 2004

BILL AMENDED: Feb 19, 2004

SUBJECT: Groundwater Standards for Onsite Sewage Systems.

FIRST AUTHOR: Sen. Gard

FIRST SPONSOR: Rep. Bottorff

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X GENERAL
DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill provides that a rule adopted by the Air Pollution Control Board that requires periodic motor vehicle emissions tests may not require a motor vehicle to be tested to demonstrate initial compliance with air emission control standards until six calendar years after the model year of the vehicle.

The bill also prohibits adoption of a rule by the State Department of Health (ISDH) if the proposed rule applies the nitrate and nitrite numeric criteria included in groundwater quality standards adopted by the Water Pollution Control Board for onsite sewage systems. It voids any rule adopted by ISDH to the extent that the rule is adopted for that purpose. It also requires the Department of Environmental Management and ISDH to jointly prepare a report concerning onsite sewage systems and nitrates and nitrites in groundwater.

Effective Date: (Amended) Upon passage; July 1, 2004.

Explanation of State Expenditures: The bill requires the State Department of Health (ISDH) and the Department of Environmental Management to jointly prepare a report regarding onsite sewage systems and nitrates and nitrites. The report shall be submitted by January 1, 2009.

Indiana State Department of Health (ISDH): The ISDH reports that this provision would not have an immediate fiscal impact. The reports consists of two parts. The first part of that report is a review of literature and recent research. The ISDH indicates that reviewing literature is a current activity of the Department. Furthermore, that the ISDH could absorb the costs of reviewing literature in preparation of the report. The second part of the report requires the agencies to determine the impact of requiring the nitrate standards. The ISDH reports that there would be a delayed fiscal impact that would occur between 2006 and 2008 for this part of the bill. The determination of impact would likely require technical expertise in the determination of

the extent of soil infiltration and contamination. The ISDH does not have that expertise and will likely require outside assistance in this evaluation. This part of the study will likely occur between 2006 and 2008 and will have a possible fiscal impact during that period.

Indiana Department of Environmental Management (IDEM): The IDEM reports that it would pursue 319 grant money from the United States Environmental Protection Agency to fulfill its part of the expenditures for the report. A 319 grant is for nonpoint source projects. The grant requires a 40% state match, which can be provided by in-kind services. The IDEM indicates that it would redirect existing staff for the project if 319 grant money is not made available.

See *Explanation of Local Expenditures* for the fiscal impact as it relates to the onsite sewage system ground water quality standards.

(Revised) Motor Vehicle Emissions: The bill disallows the requirement of the completion of a motor vehicle emission test prior to six years after the model year of the vehicle. Currently, there are four counties (Clark, Floyd, Lake, and Porter) in Indiana that require motor vehicle emission tests. The counties require the tests be completed every two years, beginning when the vehicle is five model years old for 1976 and newer passenger vehicles and trucks. The Indiana Department of Environmental Management (IDEM) reports that the change from five to six years would not significantly affect the IDEM's expenditures or revenues. However, IDEM reports that the change may result in federal sanctions against the state which could result in a potential loss of some federal highway and federal Clean Air Act grant money. The IDEM reports that the sanctions can be avoided if the state revises its federal State Implementation Plan. The revised plan could call for measures that would impact state expenditures or revenues.

Background Information: In FFY 2003, the state received \$621 M in federal Clean Air Act grant money.

[Note: This fiscal note will be updated when additional information becomes available.]

Explanation of State Revenues:

Explanation of Local Expenditures: This bill would eliminate the compliance and monitoring costs to state and local governments that would have been associated with the onsite sewage disposal rules created by the executive board of the State Department of Health under 410 IAC 6-8.2-55. This proposed rule would require local health departments to monitor secondary septic systems. If the rule was implemented, local health departments would have likely required additional staff to implement the requirement and expenditures would likely have increased for departments as a result. Expenditure increases due to the rule would vary by locality and would be dependent on the number of new permits annually which require secondary septic systems. In addition, government entities would have seen increases in expenditures if new facility construction were located in one of the specified counties where a secondary septic system is required. Prohibiting implementation of 410 IAC 6-8.2-55 will result in these costs being avoided.

Background Information: Rule 410 IAC 6-8.2-55 would require that new construction in certain areas of the state include a secondary treatment system for the removal of nitrate from the wastewater. Approximately 44 counties would be affected.

Three manufacturers currently produce systems that are anticipated to be used: (1) Earthtek, (2) Orenco, and (3) Zoeller systems. Costs of secondary treatment systems vary according to capacity. An Earthtek system for a three-bedroom house costs between \$6,500 and \$11,500 installed. Commercial secondary treatment

costs vary depending upon industry type and facility size. Estimates for commercial applications range from \$10,000 to hundreds of thousands of dollars. In addition, both residential and commercial systems require continuous monitoring and maintenance. Estimated cost per unit for monitoring and maintenance is approximately \$300 for residential and \$400 to thousands of dollars for commercial. Total annual costs may decrease in the future due to technical advances and decreasing manufacturing costs.

Local Departments of Health: This rule will increase expenditures for local health departments. It will require them to monitor whether new septic systems have appropriate maintenance contracts. This will increase the number of active permits that local departments monitor. Local health departments may require additional staff to monitor these systems.

The State Department of Health prepared estimates of the number of new permits each year that would require secondary treatment systems. The estimates are based upon the percentage of soils in a given county that meet the Department criteria for requiring secondary treatment. It is important to note that the Department analysis looked specifically at the percentage of soils meeting the set criteria and then multiplied this percentage by the number of new septic permits issued in 2001 for that county.

The Department did not use the number of permits issued in soils that meet the criteria specified in the new rule (this data is not readily available statewide). This may increase the cost of this provision statewide. For example, a recent Purdue University research project plotted the location of all new septic permits in Elkhart County for a given year. This project found that 66% of all new septic permits issued in Elkhart County were in soils that do not meet the nitrate absorption requirements. However, this study did not apply the second criteria of the rule which requires that at least three soil borings be drilled at a proposed septic site. This factor may have reduced the study's percentage. The Department assumed that 24.93% of new permits would be affected in its analysis. Elkhart County averages 700 new construction permits annually. Between 175 and 462 of these would require a secondary septic system; a difference of 287 permits.

The number of permits requiring a secondary septic system is dependent on the percentage of soils in a given county that require a secondary septic system and the number of new construction permits applied for in the required areas. Furthermore, the percentage of permits necessitating a secondary septic system varies by county. An estimate of the actual number of permits in the state (or in any given county) that will require a secondary septic system, and consequently monitoring by local health boards, is not feasible without additional data.

Based on the findings of Purdue University, Elkhart County estimates a need for two additional staff, one clerical and one professional, after the first year of implementation. Furthermore, the county estimates a need for one additional staff member every three to four years thereafter as the number of septic tanks requiring monitoring increases. Elkhart County estimates the cost for additional staff to be \$60,000 in year one and approximately \$40,000 to \$60,000 every two to three years thereafter. Costs will vary by locality due to staffing cost and the number of septic tanks needing to be monitored. Currently, the Department does not have an estimate for additional expenditures to counties.

Governmental Entities: This rule may increase new construction costs for governmental facilities. The construction costs may increase if the new facility construction occurs in one of the specified counties and requires an onsite sewage system. The number of new government facilities impacted by the provisions of this rule is currently unknown and contingent upon administrative action. Cost to the state is dependent upon type and size of septic system required if other sewage treatment options are not readily accessible.

Explanation of Local Revenues:

State Agencies Affected: Department of Health.

Local Agencies Affected: Local health departments.

Information Sources: Zach Cattell, Director of Legislative Affairs, Department of Health, 233-2170; Robert Watkins, Elkhart County Environmental Health Services, 574-875-3391; Brad Lee, Purdue University; 765-496-6884; Marlie Pedtke, Indiana Builders Association, 317-283-4266; Stuart Meade, Meade Septic Designs, 574-533-1470; Kevin Chafee, Earhtek Environmental Systems; 812-934-5035; Mike Robertson, Earthtek Environmental Systems, 812-934-5035; Joe Schaeffer, Midwest Tile and Concrete, 260-749-5173; John Crist, Hartford Concrete Products, 765-348-3506; Terry Herschberger, Indiana Builders Association, Septic Committee, 574-825-1579; Brod Boyer, PM & Associates, 317-849-0641; Scott Rexroth, PM & Associates, 317-849-0641; Tim Andrews, Press-Seal Gasket Corporation, 1-800-348-7325; Ronnie Boehm, Department of Natural Resources, 812-482-1171; Indiana Bureau of Motor Vehicles website, <http://www.state.in.us/bmv/platesandtitles/cleanAir.html>; Indiana Department of Environmental Management website, http://www.in.gov/idem/air/programs/imsite_new/testing.html.

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